S.B. CIVIL WRIT PETITION NO.1185/2005

Smt. Saraswati Devi and ors. Vs. CJ (JD), Sojat and & ors.

Date : 6.4.2005

HON'BLE MR. PRAKASH TATIA, J.

Mr. Dilip Moolchandani, for the petitioners.

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Heard learned counsel for the petitioners.

It appears from the facts of the case that in a suit for eviction filed by the plaintiff/non-petitioner no.2 against the defendant/non-petitioner no.3 on the allegation that the non-petitioner no.3 is her tenant, the petitioners, who are mother and brothers of the defendant, submitted an application under Order 1 Rule 10 C.P.C. for being impleaded as party in the suit. The said application was dismissed by the trial court vide order dated 26.7.2003 against which this writ petition has been filed.

It appears from the facts of the case that the suit was filed in the year 1999 and the said application was filed on 3.2.2003 after four years that too with the allegation that the applicants/petitioners were doing business in the shop in question jointly along with the defendant and to protect their right, now they want to become party. The trial court dismissed the said application by a detailed order.

Learned counsel for the petitioners submit that today the case is fixed for final arguments in the trial court. The trial court was right in rejecting the said application on the grounds as mentioned in the order. Apart from the fact that the petitioners who are having close relation with the defendant themselves have submitted the application after such a belated stage. Therefore, it appears that the application has been filed to delay the suit proceedings.

Learned counsel for the petitioner submitted that the original defendant may be permitted to raise objection as to non-impleadment of the petitioners as party defendant. This only shows the common interest of the parties.

In view of the above discussion, I do not find any reason to interfere in the impugned order that too at the stage of final arguments.

Accordingly, this writ petition, having no merit, is hereby dismissed.

(PRAKASH TATIA), J.

S.Phophaliya